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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,694	01/02/2002	Rupert N. Anderton	124-916	5355

23117 7590 11/24/2003
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EXAMINER

SOTOMAYOR, JOHN B

ART UNIT PAPER NUMBER

3662

DATE MAILED: 11/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/032,694

Applicant(s)

ANDERTON ET AL.

Examiner

John B. Sotomayor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Change of Address

1. The change of address filed August 11, 2003 has been entered.

Specification

2. Applicants' remarks regarding the specification are well taken. However, U.S. Patent Office prefers the format for printed U.S. patents with headings. While it is not a requirement, Applicants are requested to comply.

Claim Objections

3. In view of the present amendment the objection to Claim 22 is withdrawn.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

The remarks regarding claim 22 are not well taken since it is not that the use of the very word "portal" is not a well defined term but rather that the claim itself is considered so broad in scope as presently written as to render the claim omnibus. The claim, as best understood in its

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present form, appears to be omnibus since the claimed "portal" is not defined properly in that there are no details to the portal so as to define what exactly Applicants consider to be their invention. Clearly a claim to a "portal" incorporating an imaging system without recitation of any specifics that would make the portal patentably distinct from any other portal is unacceptable. The patentability of the imaging system notwithstanding, the combination of the imaging system and any other structure merely by the recitation of the combination is considered to be well beyond the patentability limits. In other words, if an "inventive widget" were carried from one point to another, would that entitle the inventor to claim as his inventive the "point" in which the widget appeared merely by reciting the "point" without providing any features or limitations patentably defining the point?

Thus, Examiner maintains that the claim is considered to be omnibus.

6. Claims 1, 15 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claims 1 and 18 Applicants have remarked that the system for all intents and purposes is a passive system and this is the patentable distinction and interpretation that should be given with respect to the prior art. Therefore, it is clear that the claimed invention is truly a passive imaging system. The claim language does not specifically recite that the system is passive and therefore an active system which includes a transmitter and a receiver still reads on the claim language. The active system has an imager "responsive to received millimeter wave radiation" albeit from reflections from the object due to impinging radiation from a transmitter

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source. However, the record is now clear that the claimed invention is a passive imaging system and should be considered as such.

Applicants' remarks have clarified what is meant by claim 15.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinclair et al ('224 B1) or Toth et al ('141 B1) in view of the article to Nacci et al or the article about Millivision or the article to Carts-Powell.

The claimed invention is considered to be substantially disclosed by Sinclair et al ('224 B1) or Toth et al ('141 B1) who show an imaging system including, inter alia, an imager capable of receiving millimeter wave radiation from a "container" and processing the received radiation in order to image the contents of such a container. However, it appears that the system is an active system.

The article to Nacci et al or the article about Millivision or the article to Carts-Powell are cited to show specifically that passive millimeter wave imaging systems for the express purpose of imaging a concealed object are well known in the art.

Thus one of ordinary skill in the art would have found it obvious at the time the invention was made to incorporate the passive imaging concept as taught and as motivated by the article to

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Nacci et al or the article about Millivision or the article to Carts-Powell as an alternative imaging system for the imaging systems of Sinclair et al ('224 B1) or Toth et al ('141 B1) to provide the claimed imaging system. Clearly the remaining claims are either considered to be shown by the references or are considered to be inherent to the disclosed systems in the prior art. For example, a moving container to be imaged, antenna arrays, and matching images to various specific contraband that is to be identified, etc.

9. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the article to McMillan et al or Sheen et al ('283) or Pothier ('156) in view of the article to Nacci et al or the article about Millivision or the article to Carts-Powell.

The claimed invention is considered to be substantially disclosed by the article to McMillan et al or Sheen et al ('283) or Pothier ('156) who show an imaging system including, inter alia, an imager capable of receiving millimeter wave radiation from a "container" and processing the received radiation in order to image the contents of such a container. However, it appears that the system is an active system.

The article to Nacci et al or the article about Millivision or the article to Carts-Powell are cited to show specifically that passive millimeter wave imaging systems for the express purpose of imaging a concealed object are well known in the art.

Thus one of ordinary skill in the art would have found it obvious at the time the invention was made to incorporate the passive imaging concept as taught and as motivated by the article to Nacci et al or the article about Millivision or the article to Carts-Powell as an alternative imaging system for the imaging systems of the article to McMillan et al or Sheen et al

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('283) or Pothier ('156) to provide the claimed imaging system. Clearly the remaining claims are either considered to be shown by the references or are considered to be inherent to the disclosed systems in the prior art. For example, a moving container to be imaged, antenna arrays, and matching images to various specific contraband that is to be identified, etc.

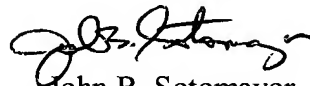
Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art show various object imaging systems.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Sotomayor whose telephone number is 703-306-4170. The examiner can normally be reached on Monday to Thursday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom H. Tarcza, can be reached on (703) 306-4171. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



John B. Sotomayor
Primary Examiner
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